

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

MADHU JAIN,
PLAINTIFF
v.
A CAPE ANN WHALE
WATCH, INC.
DEFENDANT

C.A. No. 05 11267 MEL

**PLAINTIFF'S MOTION IN LIMINE TO EXCLUDE USE OF CERTAIN
TERMINOLOGY**

Now comes the plaintiff and respectfully moves in limine to exclude the use of the terms "slip-resistant" or "non slip" or "nonskid" and "slip resistant" and variations thereof to describe diamond plate and walking surfaces.

These terms are ambiguous and ill defined. When defined, these terms are based on a material's coefficient of friction when dry. The coefficient of friction of the ramp has never been measured either wet or dry. Thus, these terms cannot be employed.

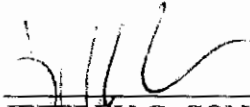
Describing a material through the use of any of these terms implies that the material's properties relative to traction have been measured and that the results of those measurements has been used in a determination as to which category the diamond plate or other material falls.

These terms are a shorthand expression for the coefficient of friction of a surface. If the coefficient of friction is unknown they cannot be used and the use of them is misleading.

In the alternative they are ambiguous, conclusory and not material.

WHEREFORE, the plaintiff respectfully moves in limine to exclude the defendant's witness from testifying in the trial of this matter.

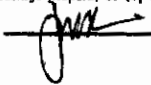
By the Plaintiff,



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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorney of record for each party and any party appearing pro se by ~~(first class mail, postage prepaid)~~ or ~~(by hand delivery)~~.

Dated 6/1/07  _____

fax